

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

STATE OF OKLAHOMA, et al.,  
Plaintiff,

vs. CASE NO. 05-CV-00329-GKF SAJ

TYSON FOODS, INC., et al.,  
Defendants.

VIDEOTAPED DEPOSITION OF ALAN FORD  
TAKEN ON BEHALF OF THE DEFENDANTS  
ON JUNE 30, 2008, BEGINNING AT 9:00 A.M.  
IN OKLAHOMA CITY, OKLAHOMA

REPORTED BY: Laura L. Robertson, CSR, RPR

1 WHEREUPON,

2 ALAN FORD,

3 after having been first duly sworn, deposes and says  
4 in reply to the questions propounded as follows,  
5 to-wit:

6 DIRECT EXAMINATION

7 BY MR. BOND:

8 Q. Sir, my name is Michael Bond and I represent  
9 Tyson Foods, Tyson Chicken, Tyson Poultry and  
10 Cobb-Vantress in this matter.

11 The matter is a lawsuit brought by the  
12 Attorney General and the Secretary of the Environment  
13 and Miles Tolbert on behalf of the State of Oklahoma  
14 against the Tyson defendants, Georgia's, Simmons,  
15 Peterson, Cargill, Willow Brook and Cal-Maine,  
16 claiming alleged damage to the Illinois River  
17 Watershed. Are you aware of that lawsuit?

18 A. Yes, I am.

19 Q. Have you given a deposition before?

20 A. No, sir.

21 Q. Actually I should go back, would you please  
22 state your name for the record, full name, please?

23 A. Alan Lee Ford.

24 Q. And are you represented by counsel here  
25 today?

1           **Q.**    And what kind of ownership interest does the  
2           state of Oklahoma have in this property?

3           **A.**    That property is owned by the Oklahoma  
4           Department of Wildlife Conservation, and it is  
5           operated by the Oklahoma Scenic Rivers Commission.

6           **Q.**    So the state of Oklahoma owns this property?

7           **A.**    Yes, sir.

8           **Q.**    Okay. Have fertilizers been stored, applied  
9           or used on this property?

10          **A.**    No chemical fertilizers have been applied.

11          **Q.**    Have any fertilizers been used on this  
12          property?

13          **A.**    In the 1980s, and that's about as close as I  
14          can get you on a date, Mr. Ed Fite applied a pickup  
15          load of composted chicken litter to the flower beds at  
16          the Scenic River Commission headquarters building.

17          **Q.**    Is that the same property that we are  
18          talking about?

19          **A.**    I do not think so, no. It is not. As a  
20          matter of fact, I know it not to be the same property  
21          as the headquarters building.

22          **Q.**    Okay. Well, let's save that and we will  
23          talk about that when we get to that, the headquarters.

24          **A.**    That would have been the only chemical  
25          fertilizer applied, or the only fertilizers applied.

1 state of Oklahoma own Lake Tenkiller?

2 **A.** I really don't know.

3 **Q.** Is it in your database?

4 **A.** We own Tenkiller State Park and we own  
5 Greenleaf State Park and they include the lake.  
6 Actually we don't own them, we lease them from the  
7 Corps.

8 **Q.** In your database is there an entry and legal  
9 description for Lake Tenkiller?

10 **A.** Yes. Not specifically for the lake, for the  
11 parks, for the WMAs, those areas surrounding them.

12 **Q.** Okay. All right, back to the wildlife  
13 management area. Do you know the size of the  
14 Tenkiller Wildlife Management Area?

15 **A.** It is large. I don't know the exact  
16 acreage.

17 **Q.** Could you give me an estimate?

18 **A.** I would say it is in excess of 500 acres.

19 **Q.** In excess of 500 acres?

20 **A.** Yes, sir.

21 **Q.** Okay. What is that piece of property used  
22 for?

23 **A.** Game management, hunting activities.

24 **Q.** Okay. And what ownership interest does the  
25 state of Oklahoma have in Tenkiller Wildlife

1 property on which Northeastern State University is  
2 located?

3 A. I would have to do some further research to  
4 give you an age on that. A long time. Better than 30  
5 years, better than 40 years.

6 Q. Okay. How many buildings are on that  
7 property?

8 A. I would have to look that up.

9 Q. Okay. Have fertilizers ever been used on  
10 the property at Northeastern State University?

11 A. Sure.

12 Q. What fertilizers?

13 A. 4600 granular and 13-13-13 granular.

14 Q. Okay. When were those fertilizers used?

15 A. They are applied during the calendar year as  
16 needed to about six acres of turf fields, the athletic  
17 field.

18 Q. So that fertilizer is applied to the  
19 athletic fields?

20 A. Yes, sir.

21 Q. Is any fertilizer applied to the campus  
22 grounds?

23 A. Not to my knowledge, no.

24 Q. How much fertilizer is applied on an annual  
25 basis at Northeastern State?

1           **A.**     About 2,000 pounds.

2           **Q.**     And how long has 2,000 pounds been applied?

3           **A.**     I really -- I don't know the exact time  
4 frame.

5           **Q.**     Okay. Who did you talk to?

6           **A.**     That would be Amber Fite.

7           **Q.**     Okay.

8           **A.**     She is general counsel up there.

9           **Q.**     Okay. And she's related to Ed Fite; right?

10          **A.**     I believe so.

11          **Q.**     Has any poultry litter been applied at  
12 Northeastern State?

13          **A.**     No, sir.

14          **Q.**     And did you talk to Ms. Fite about that?

15          **A.**     Yes, sir.

16          **Q.**     Did you ask whether or not poultry litter  
17 had ever been applied on the property that is known as  
18 Northeastern State University?

19          **A.**     Yes, sir.

20          **Q.**     What did she say?

21          **A.**     She said they do not apply poultry litter at  
22 Northeastern Oklahoma State University on campus.

23          **Q.**     Do they apply it on some other property that  
24 they own?

25          **A.**     Does Northeastern State?

1 problems at Lake Tenkiller with respect to its total  
2 retention system?

3 A. Yes, sir.

4 Q. Okay. Let's look at paragraph numbered 1,  
5 and if you could read that and I will read it out loud  
6 for the record.

7 A. Okay.

8 Q. It says, "Land application, our records show  
9 no permit for this facility. The park manager has  
10 also spoken with the prior long time facility manager  
11 and he verified that the system was not permitted and  
12 was constructed without plans and specifications." Do  
13 you see that?

14 A. Yes, sir.

15 Q. Okay. This section appears to reflect that  
16 there was no permit for land application at this site.  
17 Do you agree with that?

18 A. No, sir.

19 Q. You don't?

20 A. No, sir.

21 Q. Why don't you agree with that?

22 A. I believe what they are talking about is  
23 that seepage which they can call the land application,  
24 but it wasn't purposely applied to the land. When I'm  
25 hearing land application in the DEQ consent order,

1 they are referencing seepage from the lagoons.

2 Q. Okay.

3 A. They are not referencing an actual  
4 application of the effluent.

5 Q. Did you discuss this distinction that you  
6 get from the consent order with Kris Marek?

7 A. Did I discuss that particular distinction?  
8 No, no, I did not.

9 Q. Okay. So it is your testimony that they  
10 didn't land apply biosolids or sludge from the lagoon  
11 back in 1999?

12 A. I don't believe they did.

13 Q. You believe this relates to seepage from the  
14 bottom of the lagoon?

15 A. Yes, sir.

16 Q. And actually I didn't even establish that.  
17 Do you know where the seepage was in the lagoon?

18 A. You know, I don't know for sure. I seem to  
19 remember hearing that the dikes had some leaks.

20 Q. Okay. Paragraph 2, please take a look at  
21 that. Do you agree with that statement that the  
22 lagoon system was undersized?

23 A. It apparently was, yes.

24 Q. Okay. At the end of that paragraph, they  
25 appear to be referencing construction of a new lagoon